

Assembly Bill No. 2700

Passed the Assembly August 31, 2000

Chief Clerk of the Assembly

Passed the Senate August 31, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 22102, 22115, 22161.5, 22170, 22206, 22453, 22651, 22652, 22655, 22656, 22659, 22660, 22661, 22662, 22664, 22703, 22706, 22901.5, 24616, 24617, 25000, 25000.5, 25001, 25002, 25006, 25008, 25009, 25010, 25011, 25012, 25014, 25015, 25016, 25017, 25018, 25019, 25020, 25021, 25023, and 25024 of, to amend and renumber Section 22302 of, to amend, repeal, and add Sections 22119.2, 22905, 22954, 22955, and 24600 of, to add Sections 22101.5, 22144.5, 22146.7, 22177, 22311.5, 22955.5, and 24305.3 to, and to repeal and add Sections 22158, 22460, and 22906 of, the Education Code, relating to retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2700, Lempert. State teachers' retirement: Defined Benefit Supplement Program.

(1) Existing law establishes the Defined Benefit Program in the Teachers' Retirement Plan that provides retirement and disability benefits to members of the program. If Chapter 74 of the Statutes of 2000 becomes effective, it will establish the Defined Benefit Supplement Program for members of the Defined Benefit Program, pursuant to which members and employers will receive supplemental retirement, disability, final, or termination benefits, payable in a lump-sum or annuity, as specified.

This bill would make technical and conforming changes relating to the Defined Benefit Supplement Program and would make an appropriation of \$600,000 from the Teachers' Retirement Fund to the Teachers' Retirement Board for the administrative costs of implementing the program. These provisions would become operative only if Chapter 74 of the Statutes of 2000 becomes effective on January 1, 2001.

(2) Existing law authorizes the Teachers' Retirement Board to audit the records of any public agency as the board determines necessary.



This bill would authorize the board to excuse certain adverse audit findings occurring prior to January 1, 2002, and relating to changes in the law that will become operative on that date. The bill would make other technical changes that would become operative on specified dates subject to certain increases in school funding.

(3) The bill would incorporate additional changes to Sections 22652 and 22662 of the Education Code proposed by AB 820 to take effect if this bill and that bill are enacted and become effective on or before January 1, 2001, and this bill is enacted last.

(4) The bill would reappropriate to the board, for specified administrative costs, unexpended funds previously appropriated to the board in 1999.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 22101.5 is added to the Education Code, to read:

22101.5. "Accumulated Defined Benefit Supplement account balance" means credits equal to the sum of member contributions, the member contributions picked up by an employer, employer contributions, interest credited pursuant to Section 25005 and additional earnings credited pursuant to Section 25006.

SEC. 2. Section 22102 of the Education Code is amended to read:

22102. "Accumulated retirement contributions" means the sum of the member contributions, the member contributions picked up by an employer pursuant to Sections 22903 and 22904, and credited interest on those contributions. Accumulated retirement contributions shall not include accumulated annuity deposit contributions, accumulated tax-sheltered annuity contributions, accumulated Defined Benefit Supplement account balance, or additional earnings credit.

SEC. 3. Section 22115 of the Education Code is amended to read:



22115. (a) “Compensation earnable” means the creditable compensation a person could earn in a school year for creditable service performed on a full-time basis, excluding service for which contributions are credited by the system to the Defined Benefit Supplement Program.

(b) The board may determine compensation earnable for persons employed on a part-time basis.

(c) When service credit for a school year is less than 1.000, compensation earnable shall be the product obtained when creditable compensation paid in that year is divided by the service credit for that year, except as provided in subdivision (d).

(d) When a member earns creditable compensation at multiple pay rates during a school year and service credit at the highest pay rate is at least .900 of a year, compensation earnable shall be determined as if all service credit for that year had been earned at the highest pay rate. This subdivision shall be applicable only for purposes of determining final compensation. When a member earns creditable compensation at multiple pay rates during a school year and service credit at the highest pay rate is less than .900 of a year, compensation earnable shall be determined pursuant to subdivision (c).

(e) The amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise the amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2003.

SEC. 4. Section 22119.2 of the Education Code is amended to read:

22119.2. (a) “Creditable compensation” means salary and other remuneration payable in cash by an employer to a member for creditable service. Creditable compensation shall include:

(1) Money paid in accordance with a salary schedule based on years of training and years of experience for



creditable service performed up to and including the full-time equivalent for the position in which the service is performed.

(2) For members not paid according to a salary schedule, money paid for creditable service performed up to and including the full-time equivalent for the position in which the service is performed.

(3) Money paid for the member's absence from performance of creditable service as approved by the employer, except as provided in paragraph (7) of subdivision (b).

(4) Member contributions picked up by an employer pursuant to Section 22903 or 22904.

(5) Amounts deducted by an employer from the member's salary, including deductions for participation in a deferred compensation plan; deductions for the purchase of annuity contracts, tax-deferred retirement plans, or other insurance programs; and deductions for participation in a plan that meets the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

(6) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(7) Money paid in accordance with a salary schedule by an employer to an employee for achieving certification from a national board awarding certifications, in which eligibility for this certification is based, in part, on years of training or years of experience in teaching service, if the compensation is paid by the employer to all employees who achieved this certification.

(8) Any other payments the board determines to be "creditable compensation."

(b) "Creditable compensation" does not mean and shall not include:

(1) Money paid for service performed in excess of the full-time equivalent for the position.



(2) Money paid for overtime or summer school service, or money paid for the aggregate service performed as a member of the Defined Benefit Program in excess of one year of service credit for any one school year.

(3) Money paid for service that is not creditable service pursuant to Section 22119.5.

(4) Money paid by an employer in addition to salary paid under paragraph (1) or (2) of subdivision (a) if not paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed, except as provided in paragraph (7) of subdivision (a).

(5) Fringe benefits provided by an employer.

(6) Job-related expenses paid or reimbursed by an employer.

(7) Money paid for unused accumulated leave.

(8) Severance pay or compensatory damages or money paid to a member in excess of salary as a compromise settlement.

(9) Annuity contracts, tax-deferred retirement programs, or other insurance programs, including, but not limited to, plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code that are purchased by an employer for the member and are not deducted from the member's salary.

(10) Any payments determined by the board to have been made by an employer for the principal purpose of enhancing a member's benefits under the Defined Benefit Program. An increase in the salary of a member who is the only employee in a class pursuant to subdivision (b) of Section 22112.5 that arises out of an employer's restructuring of compensation during the member's final compensation period shall be presumed to have been granted for the principal purpose of enhancing benefits under the Defined Benefit Program and shall not be creditable compensation. If the board determines sufficient evidence is provided to the system to rebut this presumption, the increase in salary shall be deemed creditable compensation.



(11) Any other payments the board determines not to be “creditable compensation.”

(c) Any employer or person who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a) or (b) shall reimburse the plan for any overpayment of benefits that occurs because of that inconsistent reporting and may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(d) The definition of “creditable compensation” in this section is designed in accordance with sound funding principles that support the integrity of the retirement fund. These principles include, but are not limited to, consistent treatment of compensation throughout the career of the individual member, consistent treatment of compensation for an entire class of employees, the prevention of adverse selection, and the exclusion of adjustments to, or increases in, compensation for the principal purpose of enhancing benefits.

(e) This section shall be deemed to have become operative on July 1, 1996.

(f) This section shall become inoperative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become inoperative on July 1, 2003 and as of January 1, 2004, this section is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 22119.2 is added to the Education Code, to read:

22119.2. (a) “Creditable compensation” means remuneration that is payable in cash by an employer to all persons in the same class of employees and is paid to an employee for performing creditable service. Creditable compensation shall include:



(1) Salary paid in accordance with a salary schedule or employment agreement.

(2) Remuneration that is paid in addition to salary, providing it is payable to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(3) Remuneration that is paid for the use of sick leave, vacation, and other employer-approved leave, except as provided in paragraph (4) of subdivision (c).

(4) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(5) Amounts that are deducted from a member's compensation, including, but not limited to, salary deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

(6) Any other payments the board determines to be "creditable compensation."

(b) Any salary or other remuneration determined by the board to have been paid for the principal purpose of enhancing a member's benefits under the plan shall not be credited under the Defined Benefit Program. Contributions on that compensation shall be credited to the Defined Benefit Supplement Program. A presumption by the board that salary or other remuneration was paid for the principal purpose of enhancing the member's benefits under the plan may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the board that salary or other remuneration was paid for the principal purpose of enhancing the member's benefits under the plan may be reversed.

(c) "Creditable compensation" does not mean and shall not include:



(1) Remuneration that is not payable in cash or is not payable to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5.

(3) Remuneration that is paid in addition to salary if it is not payable to all persons in the same class of employees in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed pursuant to paragraph (2) of subdivision (a).

(4) Remuneration that is paid for unused accumulated leave.

(5) Annuity contracts, tax-deferred retirement plans, or insurance programs and contributions to plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code when the cost is covered by an employer and is not deducted from the member's salary.

(6) Fringe benefits provided by an employer.

(7) Job-related expenses paid or reimbursed by an employer.

(8) Severance pay or compensatory damages or money paid to a member in excess of salary as a compromise settlement.

(9) Any other payments the board determines not to be "creditable compensation."

(d) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a) or (c) shall reimburse the plan for benefit overpayments that occur because of that inconsistent reporting and may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(e) For purposes of this section, remuneration shall be considered payable if it would be paid to any person who meets the qualifications or requirements specified in a collective bargaining agreement or an employment agreement as a condition of receiving the remuneration.



(f) This definition of “creditable compensation” reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member’s career, consistent treatment of compensation among an entire class of employees, preventing adverse selection, and excluding from compensation earnable remuneration that is paid for the principal purpose of enhancing a member’s benefits under the plan. The board shall determine the appropriate crediting of contributions between the Defined Benefit Program and the Defined Benefit Supplement Program according to these principles, to the extent not otherwise specified pursuant to this part.

(g) The section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

SEC. 6. Section 22144.5 is added to the Education Code, to read:

22144.5. “Liability gains and losses” means the difference between actual noninvestment related experience and the experience expected based upon a set of noninvestment related actuarial assumptions during the period between two actuarial valuation dates, as determined in accordance with assumptions adopted by the board pursuant to Section 22311.5.

SEC. 7. Section 22146.7 is added to the Education Code, to read:

22146.7. “Minimum interest rate” means the annual interest rate determined by the board by plan amendment at which interest shall be credited to Defined Benefit Supplement accounts for a plan year.

SEC. 8. Section 22158 of the Education Code is repealed.

SEC. 9. Section 22158 is added to the Education Code, to read:



22158. (a) “Projected service” means the sum of credited service plus the credited service that would have been earned for the school years during which a disability allowance was payable if the member had performed creditable service during that time.

(b) Projected service for a school year shall be determined on the basis of the highest credited service earned by the member during any one of the three school years immediately preceding the member’s death or the date the disability allowance began to accrue.

(c) Projected service shall not include credited service for which contributions have been credited to the Defined Benefit Supplement Program.

SEC. 10. Section 22161.5 of the Education Code is amended to read:

22161.5. “Refund” means the lump-sum return of a member’s accumulated retirement contributions under the Defined Benefit Program and does not include the balance of credits in the member’s Defined Benefit Supplement account.

SEC. 11. Section 22170 of the Education Code is amended to read:

22170. “Service” means work performed for compensation in a position subject to coverage under the Defined Benefit Program, except as otherwise specifically provided in this part, providing the contributions on compensation for that work are not credited to the Defined Benefit Supplement Program.

SEC. 12. Section 22177 is added to the Education Code, to read:

22177. (a) “Unfunded actuarial obligation,” with respect to the Defined Benefit Program, means that portion of the actuarial present value of benefits that is not provided for by future, normal costs or covered by the actuarial value of assets attributable to the Defined Benefit Program, based on assumptions adopted by the board pursuant to Section 22311.5.

(b) “Unfunded actuarial obligation,” with respect to the Defined Benefit Supplement Program, means that portion of the actuarial present value of benefits that is



not provided for by future, normal costs or covered by the actuarial value of assets attributable to the Defined Benefit Supplement Program, based on assumptions adopted by the board pursuant to Section 22311.5.

SEC. 13. Section 22206 of the Education Code is amended to read:

22206. (a) As often as the board determines necessary, it may audit or cause to be audited the records of any public agency.

(b) The board may excuse any audit finding provided all of the following conditions are met:

(1) The audit finding relates to a period of time prior to July 1, 2002.

(2) The audit finding identifies an issue that is not in compliance with the provisions of this part with respect to creditable service or creditable compensation.

(3) The noncompliance would not have existed if the service and compensation crediting changes that shall become operative on July 1, 2002, as a result of legislation enacted during the second year of the 1999–2000 Regular Session, had been operative during the period of time investigated in the audit.

(4) The audit finding was included in an audit report issued on or after January 1, 2001.

(5) Excusing the audit finding will not have an adverse effect on the integrity of the retirement fund.

(c) The board's authority pursuant to subdivision (b) shall extend to service and compensation issues identified through activities outside the audit function that address compliance with the provisions of this part.

SEC. 13.5. Section 22302 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended and renumbered to read:

22302.5. The board may contract with a qualified third-party administrator for custodial, record keeping, or other administrative services necessary to carry into effect the provisions of Chapter 38 (commencing with Section 25000) of this part or Part 14.

SEC. 14. Section 22311.5 is added to the Education Code, to read:



22311.5. The board shall acquire the services of an actuary to do all of the following:

(a) Make recommendations to the board for the adoption of actuarial assumptions that, in the aggregate, are reasonably related to the past experience of the plan and reflect the actuary's informed estimate of the future experience.

(b) Make an actuarial investigation of the demographic and economic experience, including the mortality, service, and other experience, of the plan with respect to members and beneficiaries of the Defined Benefit Program; members, beneficiaries, and annuity beneficiaries of the Defined Benefit Supplement Program; and participants and beneficiaries of the Cash Balance Benefit Program.

(c) Make an annual actuarial review of the goals regarding the sufficiency of the Gain and Loss Reserves with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program and make recommendations to the board for maintaining a sufficient Gain and Loss Reserves for the Defined Benefit Supplement Program and the Cash Balance Benefit Program.

(d) Recommend to the board the amount, if any, to be transferred to the separate Gain and Loss Reserves from the investment earnings of the plan with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program.

(e) At least once every six years with respect to the Defined Benefit Program and annually with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program, using actuarial assumptions adopted by the board, perform an actuarial valuation of each program that identifies the assets and liabilities, and report the findings to the board. The report of the actuary on the results of each actuarial valuation shall identify and include the components of normal cost, if applicable, and adequate information to determine the effects of changes in actuarial assumptions. Copies of the report on each



actuarial valuation shall be transmitted to the Governor and the Legislature.

(f) Recommend to the board all rates and factors necessary to administer the plan, including, but not limited to, mortality tables, annuity factors, interest rates, and additional earnings credits.

(g) Recommend to the board a strategy for amortizing any unfunded actuarial obligation.

(h) As requested by the board, perform any other actuarial services that may be required for administration of the plan.

SEC. 15. Section 22453 of the Education Code is amended to read:

22453. (a) Except as provided in Section 22454, the signature of the spouse of a member shall be required under the Defined Benefit Program on any application for, or cancellation of, an unmodified allowance; the election, change, or cancellation of an option; or any request for a refund of the member's accumulated retirement contributions or accumulated annuity deposit contributions ; and under the Defined Benefit Supplement Program on any application for, or cancellation of, a retirement benefit, disability benefit, or termination benefit; and under either the Defined Benefit Program or the Defined Benefit Supplement Program on any other requests related to the selection of benefits by a member in which a spousal interest may be present, unless the member declares, in writing, under penalty of perjury, that one of the following conditions exists:

(1) The member is not married.

(2) The current spouse has no identifiable community property interest in the benefit.

(3) The member and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.



(4) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(5) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(b) This section shall not be applicable to an application for a disability allowance under the Defined Benefit Program.

(c) The sole purpose of this section is to provide for spousal protection in the selection of specified benefits made by a member.

SEC. 16. Section 22460 of the Education Code is repealed.

SEC. 17. Section 22460 is added to the Education Code, to read:

22460. (a) If a member terminates employment with less than five years of credited service, the employer shall notify the member of the following:

(1) That unless the member is eligible, or becomes eligible in the future, for concurrent retirement pursuant to paragraph (2) of subdivision (a) of Section 24201, the member is eligible only for a refund of accumulated retirement contributions under the Defined Benefit Program and the return of the member's accumulated Defined Benefit Supplement account balance.

(2) The current rate of interest that shall be earned on accumulated retirement contributions that are not refunded and the current minimum interest rate that shall be applied to the member's Defined Benefit Supplement account.

(3) Actions that may be taken by the board if accumulated retirement contributions are not refunded under the Defined Benefit Program and the member's Defined Benefit Supplement account balance is not returned.

(b) Employers shall transmit to a member who terminates employment with less than five years of credited service the information specified in subdivision (a) as part of the usual separation documents.



SEC. 18. Section 22651 of the Education Code is amended to read:

22651. For purposes of this chapter and Section 23300, “nonmember spouse” means a member’s spouse or former spouse who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part. A nonmember spouse shall not be considered a member based upon his or her receipt of any of the following being awarded to the nonmember spouse as a result of legal separation or dissolution of marriage: a separate account of service credit and accumulated retirement contributions, a retirement allowance, or an interest in the member’s retirement allowance under the Defined Benefit Program; or a separate account based on the member’s Defined Benefit Supplement account balance, a retirement benefit, or an interest in the member’s retirement benefit under the Defined Benefit Supplement Program.

SEC. 19. Section 22652 of the Education Code is amended to read:

22652. (a) Upon the legal separation or dissolution of marriage of a member, other than a retired member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) The court may order in the judgment or court order that the member’s accumulated retirement contributions and service credit under the Defined Benefit Program or the member’s Defined Benefit Supplement account balance, or both, under this part that are attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember spouse, respectively. Any service credit and accumulated retirement contributions under the Defined Benefit Program and any accumulated Defined Benefit Supplement account balance under this part that are not explicitly awarded by the judgment or court order shall



be deemed the exclusive property of the member under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable.

(c) The determination of the court of community property rights pursuant to this section shall be consistent with this chapter and shall address the rights of the nonmember spouse under this part, including, but not limited to, the following:

(1) The right to a retirement allowance under the Defined Benefit Program and, if applicable, a retirement benefit under the Defined Benefit Supplement Program.

(2) The right to a refund of accumulated retirement contributions and the return of the accumulated Defined Benefit Supplement account balance that were awarded to the nonmember spouse.

(3) The right to redeposit accumulated retirement contributions previously refunded to the member which the member is eligible to redeposit pursuant to Sections 23200 to 23203, inclusive, and shall specify the shares of the redeposit amount awarded to the member and the nonmember spouse.

(4) The right to purchase additional service credit that the member is eligible to purchase pursuant to Sections 22800 to 22810, inclusive, and shall specify the shares of the additional service credit awarded to the member and the nonmember spouse.

SEC. 19.5. Section 22652 of the Education Code is amended to read:

22652. (a) Upon the legal separation or dissolution of marriage of a member, other than a retired member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) The court may order in the judgment or court order that the member's accumulated retirement contributions and service credit under the Defined Benefit Program, or the member's Defined Benefit Supplement account balance, or both, under this part that are attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember



spouse, respectively. Any service credit and accumulated retirement contributions under the Defined Benefit Program and any accumulated Defined Benefit Supplement account balance under this part that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member under the Defined Benefit Program or the Defined Benefit Supplement Program, as applicable.

(c) The determination of the court of community property rights pursuant to this section shall be consistent with this chapter and shall address the rights of the nonmember spouse under this part, including, but not limited to, the following:

(1) The right to a retirement allowance under the Defined Benefit Program and, if applicable, a retirement benefit under the Defined Benefit Supplement Program.

(2) The right to a refund of accumulated retirement contributions under the Defined Benefit Program and the return of the accumulated Defined Benefit Supplement account balance that were awarded to the nonmember spouse.

(3) The right to redeposit all or a portion of accumulated retirement contributions previously refunded to the member which the member is eligible to redeposit pursuant to Sections 23200 to 23203, inclusive, and shall specify the shares of the redeposit amount awarded to the member and the nonmember spouse.

(4) The right to purchase additional service credit that the member is eligible to purchase pursuant to Sections 22800 to 22810, inclusive, and shall specify the shares of the additional service credit awarded to the member and the nonmember spouse.

SEC. 20. Section 22655 of the Education Code is amended to read:

22655. (a) Upon the legal separation or dissolution of marriage of a retired member, the court may include in the judgment or court order a determination of the community property rights of the parties in the retired member's retirement allowance and, if applicable, retirement benefit under this part consistent with this



section. Upon election under subparagraph (B) of paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonmember spouse a community property share in the retirement allowance or retirement benefit, or both, of a retired member shall be consistent with this section.

(b) If the court does not award the entire retirement allowance or retirement annuity under this part to the retired member and the retired member is receiving a retirement allowance that has not been modified pursuant to Section 24300, or a single life annuity pursuant to Section 25011 or 25018, the court shall require only that the system pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance or retirement benefit, or both, under this part.

(c) If the court does not award the entire retirement allowance or retirement benefit under this part to the retired member and the retired member is receiving an allowance that has been actuarially modified pursuant to Section 24300, or a joint and survivor retirement benefit pursuant to Section 25011 or 25018, the court shall order only one of the following:

(1) The retired member shall maintain the retirement allowance or retirement benefit, or both, under this part without change.

(2) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and select a new joint and survivor option or a new beneficiary or both, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance under this part of the retired member, the option beneficiary, or both.

(3) The retired member shall cancel the joint and survivor annuity under which the annuity is being paid pursuant to Section 24305.3, and select a new joint and survivor annuity or a new annuity beneficiary or both, based on the actuarial equivalent of the member's canceled annuity, and the system shall pay the



nonmember spouse, by separate warrant, his or her community property share of the retirement annuity payable to the retired member, the annuity beneficiary, or both.

(4) The retired member shall take the action specified in both paragraphs (2) and (3).

(5) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and select an unmodified retirement allowance and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance under this part.

(6) The retired member shall cancel, pursuant to Section 24305.3, the joint and survivor annuity under which the retirement benefit is being paid, and select a single life annuity, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement benefit payable benefit to the retired member.

(7) The retired member shall take the action specified in both paragraphs (5) and (6).

(d) If the option beneficiary or annuity beneficiary or both under this part, other than the nonmember spouse, predeceases the retired member, the court shall order the retired member to select a new option beneficiary pursuant to Section 24306, or a new annuity beneficiary pursuant to Section 24305.3 and shall order the system to pay the nonmember spouse, by separate warrant, his or her share of the community property interest in the retirement allowance or retirement benefit or both under this part of the retired member or the new option beneficiary or annuity beneficiary or each of them.

(e) The right of the nonmember spouse to receive his or her community property share of the retired member's retirement allowance or retirement benefit or both under this section shall terminate upon the death of the nonmember spouse. However, the nonmember spouse may designate a beneficiary under the Defined Benefit Program and a payee under the Defined Benefit



Supplement Program to receive his or her community property share of the retired member's accumulated retirement contributions and accumulated Defined Benefit Supplement account balance under this part in the event that there are remaining accumulated retirement contributions and a balance of credits in the member's Defined Benefit Supplement account to be paid upon the death of the nonmember spouse.

SEC. 21. Section 22656 of the Education Code is amended to read:

22656. No judgment or court order issued pursuant to this chapter is binding on the system with respect to the Defined Benefit Program or the Defined Benefit Supplement Program until the system has been joined as a party to the action and has been served with a certified copy of the judgment or court order.

SEC. 22. Section 22659 of the Education Code is amended to read:

22659. Upon being awarded a separate account or an interest in the retirement allowance or retirement benefit of a retired member under this part, a nonmember spouse shall provide the system with proof of his or her date of birth, social security number, and any other information requested by the system, in the form and manner requested by the system.

SEC. 23. Section 22660 of the Education Code is amended to read:

22660. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to designate, pursuant to Sections 23300 to 23304, inclusive, a beneficiary or beneficiaries to receive the accumulated retirement contributions under the Defined Benefit Program and to designate a payee to receive the accumulated Defined Benefit Supplement account balance under the Defined Benefit Supplement Program remaining in the separate account of the nonmember spouse on his or her date of death, and any accrued allowance or accrued benefit under the Defined Benefit Supplement that is attributable to the separate account



of the nonmember spouse and that is unpaid on the date of the death of the nonmember spouse.

(b) This section shall not be construed to provide the nonmember spouse with any right to elect to modify a retirement allowance under Section 24300 or to elect a joint and survivor annuity under the Defined Benefit Supplement Program.

SEC. 24. Section 22661 of the Education Code is amended to read:

22661. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to a refund of the accumulated retirement contributions in the account under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance, of the nonmember spouse under this part.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain a refund or lump-sum payment.

(c) The refund of accumulated retirement contributions and the return of the accumulated Defined Benefit Supplement account balance under this part are effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file with the system. If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions or accumulated Defined Benefit Supplement account balance that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a refund of the nonmember spouse's accumulated retirement contributions or accumulated Defined Benefit Supplement account balance.

(d) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit, accumulated retirement



contributions, and accumulated Defined Benefit Supplement account balance under this part when the refund and lump-sum payment become effective.

(e) The nonmember spouse may not cancel a refund or lump-sum payment under this part after it is effective.

(f) The nonmember spouse shall not have a right to elect to redeposit the refunded accumulated retirement contributions under this part after the refund is effective, to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective, or to redeposit the accumulated Defined Benefit Supplement account balance after the lump-sum payment becomes effective.

(g) If the total service credit in the separate account of the nonmember spouse under the Defined Benefit Program, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the accumulated retirement contributions in the account.

SEC. 25. Section 22662 of the Education Code is amended to read:

22662. The nonmember spouse who is awarded a separate account under the Defined Benefit Program may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may redeposit under the Defined Benefit Program only those accumulated retirement contributions that were previously refunded to the member and in which the court has determined the nonmember spouse has a community property interest.

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order that specifies the redeposit rights of the nonmember spouse is entered. The nonmember spouse's election to redeposit shall be made on a form provided by the system within 30 days after the system mails an election form and the billing.

(c) If the nonmember spouse elects to redeposit under the Defined Benefit Program, he or she shall repay the



portion of the member's refunded accumulated retirement contributions that were awarded to the nonmember spouse and shall pay regular interest from the date of the refund to the date payment of the redeposit is completed.

(d) An election to redeposit shall be considered an election to repay all accumulated retirement contributions previously refunded under this part in which the nonmember spouse has a community property interest. All payments shall be received by the system before the effective date of the nonmember spouse's retirement under this part. If any payment due because of the election is not received at the system's office in Sacramento within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(e) The right of the nonmember spouse to redeposit shall be subject to Section 23203.

(f) The member shall not have a right to redeposit the share of the nonmember spouse in the previously refunded accumulated retirement contributions under this part whether or not the nonmember spouse elects to redeposit. However, any accumulated retirement contributions previously refunded under this part and not explicitly awarded to the nonmember spouse under this part by the judgment or court order shall be deemed the exclusive property of the member.

SEC. 25.5. Section 22662 of the Education Code is amended to read:

22662. The nonmember spouse who is awarded a separate account under the Defined Benefit Program may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may redeposit under the Defined Benefit Program only those accumulated retirement contributions that were previously refunded to the member and in which the court has determined the nonmember spouse has a community property interest.



(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order that specifies the redeposit rights of the nonmember spouse is entered. The nonmember spouses' election to redeposit shall be made on a form provided by the system within 30 days after the system mails an election form and the billing.

(c) If the nonmember spouse elects to redeposit under the Defined Benefit Program, he or she shall repay all or a portion of the member's refunded accumulated retirement contributions that were awarded to the nonmember spouse and shall pay regular interest from the date of the refund to the date payment of the redeposit is completed.

(d) All payments shall be received by the system before the effective date of the nonmember spouse's retirement under this part. If any payment due because of the election is not received at the system's office in Sacramento within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(e) The right of the nonmember spouse to redeposit shall be subject to Section 23203.

(f) The member shall not have a right to redeposit the share of the nonmember spouse in the previously refunded accumulated retirement contributions under this part whether or not the nonmember spouse elects to redeposit. However, any accumulated retirement contributions previously refunded under this part and not explicitly awarded to the nonmember spouse under this part by the judgment or court order shall be deemed the exclusive property of the member.

SEC. 26. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance and, if applicable, a retirement benefit under this part.



(a) The nonmember spouse shall be eligible to retire for service under this part if the following conditions are satisfied:

(1) The member had at least five years of credited service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated retirement contributions. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, out-of-state service, and permissive service credit that the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least two and one-half years of credited service in his or her separate account.

(3) The nonmember spouse has attained the age of 55 years or more.

(b) A service retirement allowance of a nonmember spouse under this part shall become effective upon any date designated by the nonmember spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonmember spouse has filed an application for service retirement on a form provided by the system, that is executed no earlier than six months before the effective date of the retirement allowance.

(3) The effective date is no earlier than the first day of the month in which the application is received at the system's office in Sacramento and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

(c) (1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

(2) If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age under this part and normal retirement



age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the nonmember spouse would have reached normal retirement age.

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

Age at Retirement	Percentage
60 ¹ / ₄	2.033
60 ¹ / ₂	2.067
60 ³ / ₄	2.10
61	2.133
61 ¹ / ₄	2.167
61 ¹ / ₂	2.20
61 ³ / ₄	2.233
62	2.267
62 ¹ / ₄	2.30
62 ¹ / ₂	2.333
62 ³ / ₄	2.367
63 and over	2.40

(4) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse on the last day of the month in which the retirement allowance begins to accrue shall be used.

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22134, 22135, or 22136, whichever is applicable, and shall be based on the member's compensation earnable up to the date the parties separated, as established in the judgment or court order pursuant to Section 22652. The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) If the member is or was receiving a disability allowance under this part with an effective date before or



on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse shall not be eligible to retire until after the disability allowance of the member terminates. If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the portion for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the portion for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the



nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Section 24213.

(e) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions under this part, including, but not limited to, Sections 24411, 24412, and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

SEC. 27. Section 22703 of the Education Code is amended to read:

22703. (a) Service shall be credited to the Defined Benefit Program, except as provided in subdivision (b).

(b) A member's creditable service that exceeds 1.000 in a school year shall not be credited to the Defined Benefit Program. Commencing July 1, 2002, contributions by the employer that are deposited in the Teachers' Retirement Fund and the member on creditable compensation paid to the member for that service, exclusive of contributions pursuant to Section 22951, shall be credited to the Defined Benefit Supplement Program.

(c) In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits that the member would have received for that service under the provisions of this part as they existed on June 30, 1956. This subdivision shall not apply to service that is credited in the San Francisco City and County Employees Retirement System.

(d) The amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise the amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2003.

SEC. 28. Section 22706 of the Education Code is amended to read:

22706. A member shall not receive credit for service performed while receiving a retirement or disability allowance under the Defined Benefit Program or while receiving a retirement or disability benefit under the Defined Benefit Supplement Program.

SEC. 29. Section 22901.5 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

22901.5. (a) Notwithstanding Section 22905, 25 percent of the amount contributed by a member pursuant to Section 22901 (2 percent of creditable compensation) shall be credited to the member's Defined Benefit Supplement account pursuant to Section 25004.

(b) Any member contributions for service performed during the 2000–01 school year with a service period ending after December 31, 2000, shall be subject to subdivision (a).

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 30. Section 22905 of the Education Code is amended to read:

22905. (a) Contributions made by a member and member contributions made by an employer pursuant to Section 22903 and 22904 shall be credited by the board to the individual account of the member.



(b) This section shall become inoperative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become inoperative on July 1, 2003. As of January 1, 2004, this section is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 31. Section 22905 is added to the Education Code, to read:

22905. (a) Member contributions pursuant to Section 22901 and employer contributions pursuant to Sections 22903 and 22904 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Member and employer contributions on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for creditable service that exceeds one year in a school year.

(2) Compensation that is consistent with subdivision (b) of Section 22119.2.

(3) Compensation that is payable for a specified number of times as limited by law, a collective bargaining agreement, or an employment agreement.

(c) A member shall not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program, except as provided in subdivision (d), nor shall a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Member and employer contributions under the Defined Benefit Supplement Program shall be credited to the accounts of members as of June 30 each year following a determination by the system under the

provisions of this part that those contributions should be credited to the Defined Benefit Supplement Program. Contributions to a member's Defined Benefit Supplement account shall be identified separately from the member's contributions credited under the Defined Benefit Program.

(e) The provisions of this section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

SEC. 32. Section 22906 of the Education Code is repealed.

SEC. 33. Section 22906 is added to the Education Code, to read:

22906. A member's contributions that were made with respect to service that was erroneously credited under the Defined Benefit Program shall be returned to the member if the contributions for that service cannot be credited under the Defined Benefit Supplement Program pursuant to this part.

SEC. 34. Section 22954 of the Education Code is amended to read:

22954. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 1999, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.5 percent of the total of the creditable compensation of the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments authorized by Section 24415.

(b) The board may deduct from the annual appropriation made pursuant to this section an amount



necessary for the administrative expenses of Section 24415.

(c) It is the intent of the Legislature in enacting this section to establish the supplemental payments pursuant to Section 24415 as vested benefits pursuant to a contractually enforceable promise to make annual contributions from the General Fund to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in order to provide a continuous annual source of revenue for the purposes of making the supplemental payments under Section 24415.

(d) This section shall become inoperative on July 1, 2003, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become inoperative on July 1, 2004. As of January 1, 2005, this section is repealed unless a later enacted statute, that becomes effective on or before January 1, 2005, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 35. Section 22954 is added to the Education Code, to read:

22954. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 2003, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.5 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments authorized by Section 24415.

(b) The board may deduct from the annual appropriation made pursuant to this section an amount necessary for the administrative expenses of Section 24415.

(c) It is the intent of the Legislature in enacting this section to establish the supplemental payments pursuant



to Section 24415 as vested benefits pursuant to a contractually enforceable promise to make annual contributions from the General Fund to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in order to provide a continuous annual source of revenue for the purposes of making the supplemental payments under Section 24415.

(d) This section shall become operative on July 1, 2003, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2004.

SEC. 36. Section 22955 of the Education Code is amended to read:

22955. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 2001, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 1.975 percent of the total of the creditable compensation of the immediately preceding calendar year upon which members' contributions are based, to be calculated annually on October 1, and shall be divided into four equal quarterly payments. For the 2000–01 fiscal year only, the total amount of the appropriation pursuant to this subdivision shall be equal to 2.5385 percent of the total of the creditable compensation of calendar year 1999.

(b) Notwithstanding Section 13340 of the Government Code, commencing October 1, 1998, a continuous appropriation, in addition to the appropriation made by subdivision (a), is hereby annually made from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 0.524 percent of the total of the creditable compensation of the immediately preceding calendar year upon which members' contributions are based, to be



calculated annually on October 1, and shall be divided into four equal quarterly payments. The percentage shall be adjusted to reflect the contribution required to fund the normal cost deficit or the unfunded obligation as determined by the board based upon a recommendation from its actuary. If a rate increase is required, the adjustment may be for no more than 0.25 percent per year and in no case may the transfer made pursuant to this subdivision exceed 1.505 percent of the total of the creditable compensation of the immediately preceding calendar year upon which members' contributions are based. At any time when there is neither an unfunded obligation nor a normal cost deficit, the percentage shall be reduced to zero.

The funds transferred pursuant to this subdivision shall first be applied to eliminating on or before June 30, 2027, the unfunded actuarial liability of the fund identified in the actuarial valuation as of June 30, 1997.

(c) For the purposes of this section, the term "normal cost deficit" means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22311 and the total of the member contribution rate required under Section 22901 and the employer contribution rate required under Section 22950, and shall exclude (1) the portion for unused sick leave service credit granted pursuant to Section 22717, and (2) the cost of benefit increases that occur after July 1, 1990. The contribution rates prescribed in Section 22901 and Section 22950 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the creditable compensation upon which member contributions under this part are based to determine the dollar amount of the normal cost deficit for the year.

(d) Pursuant to Section 22001 and case law, members are entitled to a financially sound retirement system. It is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.



(e) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in *California Teachers' Association v. Cory*, 155 Cal.App.3d 494.

(f) Subdivision (b) shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or change in contribution rate under this part that occurs after July 1, 1990.

(g) The amendments to this section during the 1991–92 Regular Session shall be construed and implemented to be in conformity with the judicial intent expressed by the court in *California Teachers' Association v. Cory*, 155 Cal.App.3d 494.

(h) This section shall become inoperative on July 1, 2003, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become inoperative on July 1, 2004. As of January 1, 2005, this section is repealed unless a later enacted statute, that becomes effective on or before January 1, 2005, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 37. Section 22955 is added to the Education Code, to read:

22955. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 2003, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.017 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, to be calculated annually on October 1, and shall be divided into four equal quarterly payments.

(b) Notwithstanding Section 13340 of the Government Code, commencing October 1, 2003, a continuous appropriation, in addition to the



appropriation made by subdivision (a), is hereby annually made from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 0.524 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, to be calculated annually on October 1, and shall be divided into four equal quarterly payments. The percentage shall be adjusted to reflect the contribution required to fund the normal cost deficit or the unfunded obligation as determined by the board based upon a recommendation from its actuary. If a rate increase is required, the adjustment may be for no more than 0.25 percent per year and in no case may the transfer made pursuant to this subdivision exceed 1.505 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based. At any time when there is neither an unfunded obligation nor a normal cost deficit, the percentage shall be reduced to zero. The funds transferred pursuant to this subdivision shall first be applied to eliminating on or before June 30, 2027, the unfunded actuarial liability of the fund identified in the actuarial valuation as of June 30, 1997.

(c) For the purposes of this section, the term "normal cost deficit" means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22311 and the total of the member contribution rate required under Section 22901 and the employer contribution rate required under Section 22950, and shall exclude (1) the portion for unused sick leave service credit granted pursuant to Section 22717, and (2) the cost of benefit increases that occur after July 1, 1990. The contribution rates prescribed in Section 22901 and Section 22950 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the creditable compensation upon which member contributions under



this part are based to determine the dollar amount of the normal cost deficit for the year.

(d) Pursuant to Section 22001 and case law, members are entitled to a financially sound retirement system. It is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.

(e) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in *California Teachers' Association v. Cory*, 155 Cal.App.3d 494.

(f) Subdivision (b) shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or change in contribution rate under this part that occurs after July 1, 1990.

(g) The provisions of this section shall be construed and implemented to be in conformity with the judicial intent expressed by the court in *California Teachers' Association v. Cory*, 155 Cal.App.3d 494.

(h) This section shall become operative on July 1, 2003, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2004.

SEC. 38. Section 22955.5 is added to the Education Code, to read:

22955.5. For purposes of Sections 22954 and 22955, “creditable compensation” shall include only creditable compensation for which member contributions are credited under the Defined Benefit Program.

SEC. 39. Section 24305.3 is added to the Education Code, to read:

24305.3. (a) A member who is receiving a joint and survivor annuity under the Defined Benefit Supplement Program may change the annuity or the annuity beneficiary elected pursuant to Section 25011 or 25018 provided all of the following conditions are met:



(1) The annuity beneficiary is the member's spouse or former spouse.

(2) A final decree of dissolution of marriage is granted, or a judgment of nullity is entered, or an order of separate maintenance is made by a court of competent jurisdiction with respect to the member and the spouse or former spouse on or after the beginning of the initial plan year designated by the board pursuant to Section 22156.05.

(3) The change is consistent with the final decree of dissolution, judgment of nullity, or order of separate maintenance.

(b) A member may change the annuity pursuant to subdivision (a) before or after the first annuity payment is issued.

(c) The member shall notify the system in writing of the change in the annuity. The notification shall not be earlier than the effective date of the final decree of dissolution, judgment of nullity, or order of separate maintenance and shall include a certified copy of the final decree of dissolution, judgment of nullity, or order of separate maintenance, and any property settlement agreement.

(d) A change in the annuity or annuity beneficiary or both shall become effective on the date the notification of change is received by the system. The annuity amount payable to the member upon the change elected by the member shall be determined as of the effective date of the change and shall be the actuarial equivalent of the lump sum that would otherwise be payable to the member as of the date of the change. If the member elects a joint and survivor annuity, the amount payable under the annuity shall be modified consistent with the annuity elected by the member.

SEC. 40. Section 24600 of the Education Code, as amended by Chapter 965 of the Statutes 1998, is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement

allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(1) Until January 1, 2002, a person who on December 31, 1996, is between 18 and 22 years of age and who is eligible as a full-time student to receive a child's portion of an allowance shall continue to be eligible for a child's portion until the person attains 22 years of age or until the first day of the month following the end of the school quarter or semester that is in progress in the month the person attains 22 years of age provided prior verification of full-time student status is received by the board. If verification is not received by the board prior to the date the person attains 22 years of age, the allowance or the child's portion of the allowance shall cease on the day the full-time student attains 22 years of age.



(2) Notwithstanding subdivision (e) of Section 22123, until January 1, 2002, a person who on December 31, 1996, is between 18 and 22 years of age and who is not eligible as a full-time student to receive a child's portion of an allowance, may return to school on a full-time basis on or after January 1, 1997, and become eligible for a child's portion from the date of return to full-time student status until 22 years of age or until the first day of the month following the end of the school quarter or semester that is in progress in the month the person attains 22 years of age provided prior verification of full-time student status is received by the board. If verification is not received by the board prior to the date the person attains 22 years of age, the allowance or the child's portion of the allowance shall cease on the day the full-time student attains 22 years of age. No benefits shall be payable under this paragraph for a person who does not return to school as a full-time student prior to attaining 22 years of age.

(g) Supplemental payments issued under this part pursuant to Sections 24701, 24702, and 24703 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38



(commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of both of the following:

(A) The calendar year in which the member attains age 70¹/₂ years.

(B) The calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains age 70¹/₂ years; or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of :

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

(j) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date.

SEC. 41. Section 24600 of the Education Code, as amended by Chapter 74 of the Statutes of 2000, is repealed.

SEC. 42. Section 24600 is added to the Education Code, to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the



member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability and ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance. An allowance payable because of a full-time student shall terminate on the first day of the month following the end of the school quarter or semester that is in progress in the month the full-time student attains 22 years of age. Any adjustment to an allowance because of a full-time student's periods of nonattendance shall be made as follows: the allowance shall cease on the first day of the month in which return to full-time attendance was required and shall begin to accrue again on the first day of the month in which full-time attendance resumes.

(g) Supplemental payments issued under this part pursuant to Sections 24701, 24702, and 24703 to retired members, disabled members, and beneficiaries shall



begin to accrue pursuant to Sections 24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986, as amended, and related regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part, and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38 (commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70¹/₂ years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70¹/₂ years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), "terminates employment" means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.



(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

(j) This section shall become operative on January 1, 2002.

SEC. 43. Section 24616 of the Education Code is amended to read:

24616. Any overpayment made to or on behalf of any member, former member, or beneficiary, including but not limited to contributions, interest, benefits of any kind, federal or state tax, or insurance premiums, shall be deducted from any subsequent benefit that may be payable under either the Defined Benefit Program or the Defined Benefit Supplement Program. These deductions shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of the recovery the extent of liability for restitution.

SEC. 44. Section 24617 of the Education Code is amended to read:

24617. (a) To recover an amount overpaid under this part, the corrected monthly allowance payable under the Defined Benefit Program or benefit payable under the Defined Benefit Supplement Program may be reduced by no more than 5 percent if the overpayment was due to error by the system, the county superintendent of schools, a school district, or a community college district, and by no more than 15 percent if the error was due to inaccurate information or nonsubmission of information by the recipient of the allowance or benefit.

(b) This section shall not apply to the collection of overpayments due to fraud or intentional misrepresentation of facts by the recipient of the allowance or benefit.

SEC. 45. Section 25000 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:



25000. The Defined Benefit Supplement Program is hereby established to provide supplemental benefits for members of the Defined Benefit Program. The Teachers' Retirement Board shall administer the Defined Benefit Supplement Program in accordance with the provisions of this part.

SEC. 46. Section 25000.5 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25000.5. The design and administration of the Defined Benefit Supplement Program shall comply with the applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code. The board may amend the plan with respect to the Defined Benefit Supplement Program to do any of the following:

- (a) Comply with applicable federal law and regulations to the extent permitted by law.
- (b) Adopt or amend actuarial assumptions.
- (c) Designate the initial plan year.
- (d) Declare the annual the minimum interest rate.
- (e) Declare an additional earnings credit.
- (f) Declare an additional annuity credit.

SEC. 47. Section 25001 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25001. (a) The board shall establish a segregated account within the retirement fund to be known as the Gain and Loss Reserve, and the board shall have sole authority over the reserve. The Gain and Loss Reserve shall be maintained for the Defined Benefit Supplement Program and may be used to credit interest at the minimum interest rate for plan years in which the board determines that the obligation cannot be met from investment earnings. The Gain and Loss Reserve may also be used to provide additions to the Annuitant Reserve for monthly annuities payable under the Defined Benefit Supplement Program.

(b) The board shall establish a goal for the balance of the Gain and Loss Reserve and periodically shall review



the sufficiency of the reserve based on the recommendations of the actuary.

(c) The board may allocate excess earnings of the plan with respect to assets attributable to the Defined Benefit Supplement Program to the Gain and Loss Reserve. In addition, the board may allocate any liability gains and losses attributable to the Defined Benefit Supplement Program to the Gain and Loss Reserve. Upon the recommendation of the actuary, the board shall determine annually the amount, if any, that is to be allocated to the Gain and Loss Reserve for that plan year. That determination shall be made upon recommendation of the actuary after adoption of the actuarial valuation undertaken following the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year. In determining whether to allocate excess earnings to the Gain and Loss Reserve, the board shall consider all of the following:

(1) Whether or not the plan has excess earnings attributable to the Defined Benefit Supplement Program.

(2) The sufficiency of the Gain and Loss Reserve in light of the goal established pursuant to subdivision (b).

(3) The amount required for the plan's administrative costs with respect to the Defined Benefit Supplement Program.

(4) The amount required for crediting members' accounts at the minimum interest rate.

(d) In determining whether to allocate liability gains and losses to the Gain and Loss Reserve, the board shall consider the matters described in paragraphs (2), (3), and (4) of subdivision (c).

SEC. 48. Section 25002 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25002. The board shall establish and maintain a segregated account within the retirement fund to be known as the Annuitant Reserve and the board shall have sole authority over the reserve. The Annuitant Reserve shall be used for the payment of annuities under the

Defined Benefit Supplement Program. The board shall transfer the balance of credits in a member's accumulated Defined Benefit Supplement account to the reserve when a benefit is to be paid as an annuity.

SEC. 49. Section 25006 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25006. (a) The board may declare an additional earnings credit to be applied to Defined Benefit Supplement accounts for a plan year. Prior to declaring an additional earnings credit, the board shall consider all of the following:

(1) Whether the plan's investment earnings with respect to the Defined Benefit Supplement Program for the plan year exceed the amount required to meet the liabilities identified in paragraphs (2), (3), and (4).

(2) The amount required for the plan year to credit interest on members' nominal accounts at the minimum interest rate.

(3) The amount of the plan's administrative expenses with respect to the Defined Benefit Supplement Program for the plan year.

(4) The sufficiency of the Gain and Loss Reserve and whether any additions must be made to that reserve.

(b) For any plan year that the board declares an additional earnings credit, the board shall specify the amount to be added to members' accounts as a percentage increase. The additional earnings credit shall be applied to the balance of credits in each member's nominal account as of the last day of the plan year and shall be applied as of the date specified by the board. The additional earnings credit shall not be added to the balance of credits transferred from a member's Defined Benefit Supplement account to the Annuitant Reserve.

(c) The declaration of an additional earnings credit shall be made as a plan amendment adopted by the board with respect to the Defined Benefit Supplement Program upon recommendation of the actuary after adoption of the actuarial valuation undertaken following



the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year.

SEC. 50. Section 25008 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25008. A member's right to an amount equal to the member's Defined Benefit Supplement account balance shall be vested at the time contributions are initially credited to the member's account.

SEC. 51. Section 25009 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25009. (a) A member's retirement benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(b) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a retirement benefit. Any retirement benefit paid as an annuity under this chapter shall be subject to Section 25011.

(c) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

SEC. 52. Section 25010 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25010. (a) A member who meets the following eligibility requirements shall receive a retirement benefit under the Defined Benefit Supplement Program:

(1) The member has terminated all employment to perform creditable service subject to coverage by the plan. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated.



(2) The member has retired for service under the Defined Benefit Program pursuant to Chapter 27 (commencing with Section 24201).

(b) A member shall submit an application for a retirement benefit on a form prescribed by the system.

SEC. 53. Section 25011 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25011. (a) A member may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payments have been made from the account.

(b) If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance, if any, of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) A 100 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives



of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member selected that annuity at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(4) A 50 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member selected that annuity at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable. The annuity shall be payable over a specified number of years, from a minimum of three years to a maximum of 10 years. However, the annuity period shall not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.



(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402.

SEC. 54. Section 25012 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25012. An annuity payable under the Defined Benefit Supplement Program shall be determined as a value actuarially equivalent to the balance of credits in the member's Defined Benefit Supplement account on the date the benefit becomes payable and after any lump-sum payment. If a single life annuity is elected, the annuity shall be calculated using the age of the member on the date the benefit becomes payable. A member may elect a single life annuity only if the member did not elect to receive a modified allowance pursuant to Section 24300. If a joint and survivor annuity is elected, the annuity shall be calculated using the age of the member and the age of the member's beneficiary on the date the benefit becomes payable. A member may elect a joint and survivor annuity only if the member elected to receive a modified allowance pursuant to Section 24300.

SEC. 55. Section 25014 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25014. (a) If a member reinstates from service retirement under this part, payment of a retirement annuity based on the balance of credits that was transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall terminate. The member's Defined Benefit Supplement account shall be credited with the actuarial equivalent of the member's annuity as of the date the annuity is terminated and the Annuitant Reserve shall be reduced by the amount credited to the member's account.

(b) If the member subsequently retires again, an annuity based on the remaining balance of credits in the member's Defined Benefit Supplement account at the time of the subsequent retirement shall become payable



pursuant to Section 24202.5 and the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve.

SEC. 56. Section 25015 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25015. (a) If a member elects to receive a benefit payable under the Defined Benefit Supplement Program as a joint and survivor annuity, the designation of the beneficiary made pursuant to Section 24300 shall apply to the benefit payable under this chapter. The annuity beneficiary designation shall not be changed after the date the benefit becomes payable to the member, except as provided in Chapter 12 (commencing with Section 22650).

(b) If the member designates multiple annuity beneficiaries in the designation of beneficiary made pursuant to Section 24300, the percentage of the annuity payable to each annuity beneficiary upon the death of the member specified in that designation shall apply to the benefit payable under this chapter. The annuity amount payable to the member during his or her lifetime shall be modified to be payable over the combined lives of the member and the annuity beneficiary or beneficiaries.

(c) If the member predeceases an annuity beneficiary, the annuity beneficiary may designate a payee to receive an amount that may be payable in a lump-sum pursuant to Section 25023 upon the death of the annuity beneficiary.

SEC. 57. Section 25016 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25016. (a) A member's disability benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable.

(b) A disability benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an

annuity, as elected by the member on the application for a disability benefit. Any retirement benefit paid as an annuity under this chapter shall be subject to Section 25018.

(c) Upon distribution of the entire disability benefit in a lump-sum payment, no other benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

SEC. 58. Section 25017 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25017. (a) A member who meets the following eligibility requirements shall receive a disability benefit under the Defined Benefit Supplement Program:

(1) The member has terminated all employment to perform creditable service subject to coverage by the plan. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated.

(2) The member has been approved to receive a disability allowance pursuant to Chapter 25 (commencing with Section 24001) or a disability retirement allowance pursuant to Chapter 26 (commencing with Section 24100) under the Defined Benefit Program.

(b) The member, or the member's employer or conservator on behalf of the member, shall submit an application for a disability benefit on a form prescribed by the system.

SEC. 59. Section 25018 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25018. (a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payment has been made from this account.



(b) If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) A 100 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member selected that annuity at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(4) A 50 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary.

Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member selected that annuity at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable. The annuity shall be payable over a specified number of years, from a minimum of three years to a maximum of 10 years. However, the annuity period shall not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402, unless the member elected a period certain annuity.

SEC. 60. Section 25019 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25019. (a) If a member's disability allowance or disability retirement allowance under this part is terminated, payment of a disability annuity based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve also shall terminate. The member's Defined Benefit Supplement account shall be credited with the actuarial equivalent of the member's annuity as of the



date the annuity is terminated and the Annuitant Reserve shall be reduced by the amount credited to the member's account.

(b) If a disability allowance or a service or disability retirement allowance subsequently becomes payable again, an annuity based on the remaining balance of credits in the member's Defined Benefit Supplement account at the time of the subsequent disability or service or disability retirement becomes payable and the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve.

SEC. 61. Section 25020 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25020. (a) A final benefit under the Defined Benefit Supplement Program shall become payable when the system receives proof of the member's death.

(b) If the member's death occurs before an annuity under the Defined Benefit Supplement Program becomes payable, the final benefit shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death.

(c) Upon distribution of a final benefit in a lump-sum payment, no other benefit shall be payable under the Defined Benefit Supplement Program to the member's beneficiary.

SEC. 62. Section 25021 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25021. (a) A beneficiary, other than an entity, may elect to receive the final benefit payable under the Defined Benefit Supplement Program as an annuity payable in monthly installments provided the balance of credits in the member's Defined Benefit Supplement account equals at least three thousand five hundred dollars (\$3,500).

(b) A beneficiary who elects to receive an annuity shall elect one of the following forms of payment:



(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the beneficiary if the beneficiary elected to receive the final benefit in a lump-sum payment. The annuity shall cease to be payable upon the death of the beneficiary, and no other benefit shall be payable under the Defined Benefit Supplement Program because of the death of the member and the member's beneficiary.

(2) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death. The annuity shall be payable over a specified number of years, from a minimum of three years to a maximum of 10 years, but not to exceed the life expectancy of the beneficiary. The beneficiary may designate a payee to receive the remaining balance of payments if the beneficiary's death occurs prior to the end of the period certain.

(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402, unless the member elected a period certain annuity.

SEC. 63. Section 25023 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25023. (a) Upon the death of an annuity beneficiary who was receiving an annuity under a joint and survivor annuity elected by the member no further payment shall be made.

(b) Upon the death of a beneficiary who was receiving a single life annuity without a cash refund feature, no further payment shall be made.

(c) Upon the death of a beneficiary who was receiving a period certain annuity, the actuarial equivalent of the remaining balance of payments shall be paid in a lump sum to the payee designated by the beneficiary pursuant to subdivision (c) of Section 25015.



SEC. 64. Section 25024 of the Education Code, as added by Chapter 74 of the Statutes of 2000, is amended to read:

25024. (a) Upon the termination of all employment to perform creditable service subject to coverage under the plan for a reason other than retirement, disability, or death, a member shall be eligible for a termination benefit under the Defined Benefit Supplement Program. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated.

(b) A member shall submit an application for a termination benefit on a form prescribed by the system. If a member submits an application for a refund of contributions under the Defined Benefit Program, pursuant to Section 23103, that application shall also be deemed an application for a termination benefit.

(c) The termination benefit shall be a lump-sum payment that is equal to the balance of credits in the member's Defined Benefit Supplement account.

(d) Upon distribution of the termination benefit, no further benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

(e) A partial distribution of the balance of credits in a member's Defined Benefit Supplement account shall not be made, except as provided in Section 25009, 25015, 25016, or 25022.

SEC. 65. Section 19.5 of this bill incorporates amendments to Section 22652 of the Education Code proposed by both this bill and AB 820. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 22652 of the Education Code, and (3) this bill is enacted after AB 820, in which case Section 19 of this bill shall not become operative.

SEC. 66. Section 25.5 of this bill incorporates amendments to Section 22662 of the Education Code proposed by both this bill and AB 820. It shall only become

operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 22662 of the Education Code, and (3) this bill is enacted after AB 820, in which case Section 25 of this bill shall not become operative.

SEC. 67. The sum of \$600,000 is hereby appropriated from the Teachers' Retirement Fund to the Teachers' Retirement Board for the administrative costs of implementing the provisions of Chapter 74 of the Statutes of 2000, as amended by this act.

SEC. 68. The unexpended balance of funds appropriated to the Teachers' Retirement Board in Chapter 632 of the Statutes of 1999 for the payment of administrative costs of implementing the provisions of that act, is hereby reappropriated to the board for the payment of administrative costs of implementing the provisions of legislation enacted during the second year of the 1999–2000 Session of the Legislature affecting the State Teachers' Retirement System.

SEC. 69. The provisions of this act, other than Sections 3, 4, 8, 13, 27, 30, 31, 34, 35, 36, 37, and 68, shall become operative only if Chapter 74 of the Statutes of 2000 becomes effective on or before January 1, 2001.

SEC. 70. The Teachers' Retirement Board shall promptly notify the Secretary of State if and when the condition specified in Sections 3, 4, 5, 27, 30, and 31 of this act has been satisfied to cause those sections to become operative on July 1, 2002.

SEC. 71. The Teachers' Retirement Board shall promptly notify the Secretary of State if and when the condition specified in Sections 34, 35, 36, and 37 of this act has been satisfied to cause those sections to become operative on July 1, 2003.



Approved _____, 2000

Governor

